

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
THOMAS GIOELI,

Plaintiff,

-against-

UNITED STATES OF AMERICA,

Defendant.
-----X

ECF Case No.: 14-cv-6806

VERIFIED COMPLAINT

PRELIMINARY STATEMENT

1. This is an action in which the plaintiff seeks relief by the laws and Constitution of the State of New York and under the Federal Tort Claim Act for damages for personal injuries suffered by him as a result of negligence on the part of the defendant by its agents, servants and employees in the maintenance, operation and control of it facility located at the Metropolitan Detention Center, Brooklyn, New York. Plaintiff also seeks compensatory damages, both affirmative and equitable relief, an award of costs and such other and further relief as this Court deems equitable and just.

VENUE

6. Venue is proper for the United States District Court for the Eastern District of New York pursuant to 28 U.S.C. §1391 (a), (b) and (c).

PARTIES

7. Plaintiff THOMAS GIOELI is currently a prisoner at FCI Butner Low Correctional Facility.

8. DEFENDANT is the UNITED STATES OF AMERICA (hereinafter referred to as ("USA")).

9. At all times hereinafter mentioned, FEDERAL BUREAU OF PRISONS (hereinafter

referred to as “BUREAU”) is a governmental agency of defendant USA and was created and authorized under the laws of the United States of America. It is authorized by law to maintain and operate prisons, detentions and correctional facilities. The BUREAU’S staff is responsible for the proper operation, maintenance and control of its premises.

10. Defendant USA through its agency BUREAU assumes the risks incidental to the supervision, operation and maintenance of the Metropolitan Detention Center, 80 29th Street, Brooklyn, New York, its agents, servants, and employees.

11. Defendant USA through its agency BUREAU operated, controlled, supervised, maintained and managed the Metropolitan Detention Center, Brooklyn, New York, and its agents, servants and/or employees, located at 80 29th Street, Brooklyn, New York.

NOTICE OF CLAIM

12. Plaintiff filed a Notice of Claim with the BUREAU which on information and belief was entered by the BUREAU on March 7, 2014, detailing the events complained of herein. More than six months have elapsed since the filing of the Notice of Claim, and adjustment or payment thereof has been denied, neglected or refused.

STATEMENT OF RELEVANT FACTS

13. That on or about August 29, 2013, plaintiff THOMAS GIOELI was an inmate at the Metropolitan Detention Center, located in Brooklyn, New York.

14. That on or about August 29, 2013, at approximately 6:00 p.m., Plaintiff THOMAS GIOELI was caused to slip and fall on a wet floor due to a leaking slop sink pipe and shower located near the stairs going to the second level.

NEGLIGENCE

21. The plaintiff incorporates by reference the allegations set forth in all preceding

paragraphs as if fully set forth herein.

22. That the Defendant USA was negligent and careless in that it violated its duty to the this Plaintiff THOMAS GIOELI in particular and knowingly, suffering and allowing the aforesaid floor, to be, become and remain wet and dangerous condition and Defendant USA its agents, servants and/or employees, were further negligent in failing to take suitable precautions for the safety of said persons using the aforementioned floor and facility.

23. That the Defendant, USA its agents, servants and/or employees, had the duty to see that the building and the floors at the above mentioned detention facility was kept reasonably safe and free of dangers and hazards to those inside the building thereat including the plaintiff herein.

24. That by reason of the foregoing and the negligence of the said Defendant, USA its agents, servants and/or employees, Plaintiff THOMAS GIOELI has been rendered sick, sore, lame, maimed and disabled and so remains due to the negligence of defendant.

WHEREFORE, plaintiff demands the following relief against the defendant:

- a. Compensatory damages in the amount of \$10,000,000.00;
- b. Pre and post-judgment costs, interest and attorneys' fees;
- c. Such other and further relief as to this Court may deem appropriate and equitable.

Dated: Rockville Center, New York
November 19, 2014

Yours, etc.,

ISAACSON, SCHIOWITZ & KORSON, LLP

By 

MARTIN SCHIOWITZ (MS 0583)

Attorneys for Plaintiff
371 Merrick Road, Suite 302
Rockville Center, New York 11570
(516) 208-1300
Our File No.: GIOTH011

Dated: Rockville Center, New York
November 19, 2014

Yours, etc.,

ISAACSON, SCHIOWITZ & KORSON, LLP

By 
MARTIN SCHIOWITZ (MS 0583)

Attorneys for Plaintiff
371 Merrick Road, Suite 302
Rockville Center, New York 11570
(516) 208-1300
Our File No.: GIOTH011

ATTORNEY VERIFICATION

The undersigned, an attorney duly admitted to practice in the courts of New York State, hereby affirms that I am the attorney of record for the plaintiff in the within action; I have read the foregoing **COMPLAINT** and know the contents thereof; that the same is true to my own knowledge, except as to the matters therein stated to be alleged on information and belief, and as to those matters I believe them to be true.

The reason this verification is made by me and not by plaintiff is because the plaintiff does not reside in the county in which my office is located.

The grounds of my belief as to all matters not stated upon my own knowledge are the reports, records and memoranda in my file, conversations had with the client, and my own investigation.

I affirm that the foregoing statements are true, under the penalties of perjury.

Dated: Rockville Center, New York
November 19, 2014



MARTIN SCHIOWITZ, ESQ.

United States District Court
EASTERN DISTRICT OF NEW YORK

THOMAS GIOELI,

V.

SUMMONS IN A CIVIL ACTION

CASE NUMBER: 14-cv-6806

UNITED STATES OF AMERICA

TO: Attn: Legal Counsel
Bureau of Prisons
Northeast Regional Office
U.S. Custom House
200 Chestnut Street
Philadelphia, Pa. 19106

YOU ARE HEREBY SUMMONED and required to file with the Clerk of this Court and serve upon **PLAINTIFF'S ATTORNEY** (name and address)

ISAACSON, SCHIOWITZ & KORSON
371 Merrick Road, Suite 302
Rockville Center, New York 11570
(516) 208-1300

an answer to the complaint which is herewith served upon you, within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

DATE

BY DEPUTY CLERK

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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THOMAS GIOELI,

Plaintiff,

-against-

UNITED STATES OF AMERICA,

Defendant.

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SUMMONS AND VERIFIED COMPLAINT

ISAACSON, SCHIOWITZ & KORSON, LLP

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